

104TH CONGRESS  
1ST SESSION

# H. R. 711

To provide for restitution of victims of crimes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 1995

Mr. OXLEY (for himself, Ms. PRYCE, Mr. KING, Mr. HANCOCK, Mr. WALSH, Mr. CANADY of Florida, Mr. SMITH of Texas, Mr. FORBES, Mr. ZIMMER, Mr. FOX of Pennsylvania, Mr. FRANK of Massachusetts, Mr. MOORHEAD, Mrs. MEYERS of Kansas, Mr. STUMP, Mr. GEKAS, Mr. DORNAN, Mr. LATHAM, Mr. MCDADE, Mr. PETERSON of Minnesota, Mr. SHAW, Mr. SHAYS, Mr. FIELDS of Texas, Mr. BARTON of Texas, Mr. BREWSTER, Mr. ISTOOK, Mr. BLUTE, Mr. SHUSTER, Mr. LIGHTFOOT, Mr. KNOLLENBERG, Mr. SERRANO, Mr. CUNNINGHAM, Mr. CHRISTENSEN, Mr. GORDON, Mr. LIVINGSTON, and Mr. BACHUS) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide for restitution of victims of crimes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Crime Victims Restitu-  
5 tion Act of 1995”.

1 **SEC. 2. ORDER OF RESTITUTION.**

2 Section 3663 of title 18, United States Code, is  
3 amended—

4 (1) in subsection (a)—

5 (A) by striking “may order” and inserting  
6 “shall order”; and

7 (B) by adding at the end the following new  
8 paragraph:

9 “(4) In addition to ordering restitution of the victim  
10 of the offense of which a defendant is convicted, a court  
11 may order restitution of any person who, as shown by a  
12 preponderance of evidence, was harmed physically, emo-  
13 tionally, or pecuniarily, by unlawful conduct of the defend-  
14 ant during—

15 “(A) the criminal episode during which the of-  
16 fense occurred; or

17 “(B) the course of a scheme, conspiracy, or pat-  
18 tern of unlawful activity related to the offense.”;

19 (2) in subsection (b)(1)(B), by striking “im-  
20 practical” and inserting “impracticable”;

21 (3) in subsection (b)(2), by inserting “emotional  
22 or” after “resulting in”;

23 (4) in subsection (c), by striking “If the Court  
24 decides to order restitution under this section, the”  
25 and inserting “The”;

1 (5) by striking subsections (d), (e), (f), (g), and  
2 (h);

3 (6) by redesignating subsection (i) as subsection  
4 (m); and

5 (7) by inserting after subsection (c) the follow-  
6 ing new subsections:

7 “(d)(1) The court shall order restitution to a victim  
8 in the full amount of the victim’s losses as determined by  
9 the court and without consideration of—

10 “(A) the economic circumstances of the of-  
11 fender; or

12 “(B) the fact that a victim has received or is  
13 entitled to receive compensation with respect to a  
14 loss from insurance or any other source.

15 “(2) Upon determination of the amount of restitution  
16 owed to each victim, the court shall specify in the restitu-  
17 tion order the manner in which and the schedule according  
18 to which the restitution is to be paid, in consideration of—

19 “(A) the financial resources and other assets of  
20 the offender;

21 “(B) projected earnings and other income of  
22 the offender; and

23 “(C) any financial obligations of the offender,  
24 including obligations to dependents.

1       “(3) A restoration order may direct the offender to  
2 make a single, lump-sum payment, partial payment at  
3 specified intervals, or such in-kind payments as may be  
4 agreeable to the victim and the offender.

5       “(4) An in-kind payment described in paragraph (3)  
6 may be in the form of—

7               “(A) return of property;

8               “(B) replacement of property; or

9               “(C) services rendered to the victim or to a per-  
10 son or organization other than the victim.

11       “(e) When the court finds that more than 1 offender  
12 has contributed to the loss of a victim, the court may make  
13 each offender liable for payment of the full amount of res-  
14 titution or may apportion liability among the offenders to  
15 reflect the level of contribution and economic cir-  
16 cumstances of each offender.

17       “(f) When the court finds that more than 1 victim  
18 has sustained a loss requiring restitution by an offender,  
19 the court shall order full restitution of each victim but may  
20 provide for different payment schedules to reflect the eco-  
21 nomic circumstances of each victim.

22       “(g)(1) If the victim has received or is entitled to re-  
23 ceive compensation with respect to a loss from insurance  
24 or any other source, the court shall order that restitution  
25 be paid to the person who provided or is obligated to pro-

1 vide the compensation, but the restitution order shall pro-  
2 vide that all restitution of victims required by the order  
3 be paid to the victims before any restitution is paid to  
4 such a provider of compensation.

5 “(2) The issuance of a restitution order shall not af-  
6 fect the entitlement of a victim to receive compensation  
7 with respect to a loss from insurance or any other source  
8 until the payments actually received by the victim under  
9 the restitution order fully compensate the victim for the  
10 loss, at which time a person that has provided compensa-  
11 tion to the victim shall be entitled to receive any payments  
12 remaining to be paid under the restitution order.

13 “(3) Any amount paid to a victim under an order of  
14 restitution shall be set off against any amount later recov-  
15 ered as compensatory damages by the victim in—

16 “(A) any Federal civil proceeding; and

17 “(B) any State civil proceeding, to the extent  
18 provided by the law of the State.

19 “(h) A restitution order shall provide that—

20 “(1) all fines, penalties, costs, restitution pay-  
21 ments and other forms of transfers of money or  
22 property made pursuant to the sentence of the court  
23 shall be made by the offender to an entity des-  
24 ignated by the Director of the Administrative Office  
25 of the United States Courts for accounting and pay-

1       ment by the entity in accordance with this sub-  
2       section;

3           “(2) the entity designated by the Director of  
4       the Administrative Office of the United States  
5       Courts shall—

6           “(A) log all transfers in a manner that  
7       tracks the offender’s obligations and the cur-  
8       rent status in meeting those obligations, unless,  
9       after efforts have been made to enforce the res-  
10      titution order and it appears that compliance  
11      cannot be obtained, the court determines that  
12      continued recordkeeping under this subpara-  
13      graph would not be useful;

14          “(B) notify the court and the interested  
15      parties when an offender is 90 days in arrears  
16      in meeting those obligations; and

17          “(C) disburse money received from an of-  
18      fender so that each of the following obligations  
19      is paid in full in the following sequence:

20           “(i) a penalty assessment under sec-  
21      tion 3013 of title 18, United States Code;

22           “(ii) restitution of all victims; and

23           “(iii) all other fines, penalties, costs,  
24      and other payments required under the  
25      sentence; and

1           “(3) the offender shall advise the entity des-  
2           ignated by the Director of the Administrative Office  
3           of the United States Courts of any change in the of-  
4           fender’s address during the term of the restitution  
5           order.

6           “(i) A restitution order shall constitute a lien against  
7           all property of the offender and may be recorded in any  
8           Federal or State office for the recording of liens against  
9           real or personal property.

10          “(j) Compliance with the schedule of payment and  
11          other terms of a restitution order shall be a condition of  
12          any probation, parole, or other form of release of an of-  
13          fender. If a defendant fails to comply with a restitution  
14          order, the court may revoke probation or a term of super-  
15          vised release, modify the term or conditions of probation  
16          or a term of supervised release, hold the defendant in con-  
17          tempt of court, enter a restraining order or injunction,  
18          order the sale of property of the defendant, accept a per-  
19          formance bond, or take any other action necessary to ob-  
20          tain compliance with the restitution order. In determining  
21          what action to take, the court shall consider the defend-  
22          ant’s employment status, earning ability, financial re-  
23          sources, the willfulness in failing to comply with the res-  
24          titution order, and any other circumstances that may have

1 a bearing on the defendant's ability to comply with the  
2 restitution order.

3 “(k) An order of restitution may be enforced—

4 “(1) by the United States—

5 “(A) in the manner provided for the collec-  
6 tion and payment of fines in subchapter (B) of  
7 chapter 229 of this title; or

8 “(B) in the same manner as a judgment in  
9 a civil action; and

10 “(2) by a victim named in the order to receive  
11 the restitution, in the same manner as a judgment  
12 in a civil action.

13 “(l) A victim or the offender may petition the court  
14 at any time to modify a restitution order as appropriate  
15 in view of a change in the economic circumstances of the  
16 offender.”.

17 **SEC. 3. PROCEDURE FOR ISSUING ORDER OF RESTITUTION.**

18 Section 3664 of title 18, United States Code, is  
19 amended—

20 (1) by striking subsection (a);

21 (2) by redesignating subsections (b), (c), (d),  
22 and (e) as subsections (a), (b), (c), and (d), respec-  
23 tively;

24 (3) by amending subsection (a), as redesignated  
25 by paragraph (2), to read as follows:



1       “(a) The court may order the probation service of the  
2 court to obtain information pertaining to the amount of  
3 loss sustained by any victim as a result of the offense,  
4 the financial resources of the defendant, the financial  
5 needs and earning ability of the defendant and the defend-  
6 ant’s dependents, and such other factors as the court  
7 deems appropriate. The probation service of the court  
8 shall include the information collected in the report of  
9 presentence investigation or in a separate report, as the  
10 court directs.”; and

11           (4) by adding at the end the following new sub-  
12 section:

13       “(e) The court may refer any issue arising in connec-  
14 tion with a proposed order of restitution to a magistrate  
15 or special master for proposed findings of fact and rec-  
16 ommendations as to disposition, subject to a de novo de-  
17 termination of the issue by the court.”.

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